



September 30, 2013

*VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED*

Randall Martin Esch  
Agent for Service of Process  
Marine Express, Inc.  
2085 North Broadway Suite 500  
Walnut Creek, CA 94596

Troy Esch  
Compliance Manager  
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2900 Main Street, Ste 3103  
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Tracie Rasmussen  
Operations Coordinator  
Marine Express, Inc.  
2900 Main Street Ste 3103  
Alameda, CA 94501

**Re: Notice of Violation and Intent to File Suit under the Clean Water Act**

To Whom It May Concern:

I am writing on behalf of San Francisco Baykeeper ("Baykeeper") to give notice that Baykeeper intends to file a civil action against Marine Express, Inc. for violations of the federal Clean Water Act, 33 U.S.C. § 1251 *et seq.* ("CWA") and the State of California's General Industrial Stormwater Permit ("Storm Water Permit")<sup>1</sup> at its facility located at 2900 Main Street in Alameda, California (the "Facility").

The Clean Water Act provides that a facility's owners and/or operators are liable and subject to civil penalties for violations of its provisions. 40 C.F.R. § 122.41(b). As explained below, the owners and/or operators of the Facility are liable and subject to civil penalties for violating the Clean Water Act and Storm Water Permit.

## **I. BACKGROUND**

Baykeeper is a non-profit public benefit corporation organized under the laws of California, with its office in San Francisco, California. Baykeeper's purpose is to preserve, protect, and defend the environment, wildlife, and natural resources of San Francisco Bay, its tributaries, and other waters in the Bay Area, for the benefit of local communities. Baykeeper has over two thousand members who use and enjoy San Francisco Bay and other waters for various recreational, educational, and spiritual

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<sup>1</sup> California's General Industrial Stormwater Permit can be found here:  
[http://www.swrcb.ca.gov/water\\_issues/programs/stormwater/industrial.shtml](http://www.swrcb.ca.gov/water_issues/programs/stormwater/industrial.shtml) (last accessed on 9/27/2013).



purposes. Baykeeper's members' use and enjoyment of these waters are negatively affected by the pollution caused by Marine Express' operations.

This letter addresses Marine Express' unlawful discharge of pollutants from the Facility via stormwater into the Oakland Estuary, a tributary of San Francisco Bay. Specifically, Baykeeper's investigation of the Facility has uncovered significant, ongoing and continuous violations of the CWA and the National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("Storm Water Permit").

Section 505(a) of the Clean Water Act authorizes citizen suits "against any person...who is alleged to be in violation of... an effluent standard or limitation under this Act... or an order issued...with respect to such a standard or limitation." 33 U.S.C. § 1365(a)(1). CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), a citizen must give notice of his or her intent to file suit. 33 U.S.C. § 1365. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency, and the State in which the violations occur. As required by section 505(b), this Notice of Violation and Intent to File Suit provides notice to Marine Express of the violations that have occurred and which continue to occur at the Facility. After the expiration of sixty (60) days from the date of this Notice of Violation and Intent to File Suit, Baykeeper intends to file suit in federal court against Marine Express under CWA section 505(a) for the violations described more fully below.

During the 60-day notice period, Baykeeper is willing to discuss effective remedies for the violations noticed in this letter. We suggest that Marine Express contact us within the next twenty (20) days so that these discussions may be completed by the conclusion of the 60-day notice period. Please note that we do not intend to delay the filing of a complaint in federal court even if discussions are continuing when the notice period ends, and it is Baykeeper's policy to serve the complaint concurrent with filing the complaint in federal court or shortly thereafter.

## **II. THE LOCATION OF THE ALLEGED VIOLATIONS**

### **A. The Facility**

Marine Express operates at 2900 Main Street in Alameda, California, adjacent to the Oakland Estuary. The company specializes in servicing deep draft vessels in San Francisco Bay waters and its operations are situated on a paved area of 5,000 square feet consisting of an engineering shop, engineering yard, warehouse, fuel storage tank area, offices, parking lot, and pier.

While most vessel repairs are done aboard ships, some repairs may be done on the premises, and equipment and vehicle servicing involve chemicals such as solvents, lubricants, and fuels, which are stored onsite. Repair work on the premises also includes woodworking and metalworking, which occurs outdoors at the pier and at the engineering



shop. Two hydraulic cranes are kept on the premises for vessel loading, and a storage tank for oily waste is maintained at the engineering yard. The processes at the facility involve pollutants such as oil, diesel fuel, gasoline, solvents, sawdust, cleaning agents, metalworking dust, and paints.

Outdoor activities (including vehicle maintenance, repairs, painting, and fueling), equipment storage, waste and fuel storage, and truck and forklift traffic expose these pollutants to rainfall. Storm water from the facility flows into storm drains leading to the Oakland Estuary. Additionally, fueling, metalworking, and woodworking done on the Pier next to the water can result in contaminated storm water runoff depositing directly into the Estuary.

### **B. The Affected Waters**

Stormwater from the Facility discharges via storm drains into the Oakland Estuary, and, from there, into San Francisco Bay. Direct discharges may also be occurring off of the Pier. San Francisco Bay and Oakland Estuary are waters of the United States. The CWA requires that water bodies such as San Francisco Bay meet water quality objectives that protect specific "beneficial uses." The beneficial uses of the San Francisco Bay and its tributaries include commercial and sport fishing, estuarine habitat, fish migration, navigation, preservation of rare and endangered species, water contact and non-contact recreation, shellfish harvesting, fish spawning, and wildlife habitat. Contaminated stormwater from the Facility adversely affects the water quality of San Francisco Bay watershed and threatens the ecosystem of this watershed, which includes significant habitat for listed rare and endangered species.

## **II. THE ACTIVITIES AT THE FACILITY ALLEGED TO CONSTITUTE VIOLATIONS AND THE EFFLUENT LIMITATIONS VIOLATED**

It is unlawful to discharge pollutants to waters of the United States, such as the Oakland Estuary and San Francisco Bay, without an NPDES permit or in violation of the terms and conditions of an NPDES permit. CWA § 301(a), 33 U.S.C. § 1311(a); *see also* CWA § 402(p), 33 U.S.C. § 1342(p) (requiring NPDES permit issuance for the discharge of stormwater associated with industrial activities). The Industrial Stormwater Permit authorizes certain discharges of stormwater, conditioned on compliance with its terms.

Marine Express submitted a Notice of Intent ("NOI") to be authorized to discharge stormwater from the Facility under the Industrial Stormwater Permit. Information available to Baykeeper indicates that stormwater discharges from the Facility have violated several of the terms of the Industrial Stormwater Permit and the CWA. *Id.* Apart from discharges that comply with the Industrial Stormwater Permit, Marine Express lacks NPDES permit authorization for any other discharges of pollutants into waters of the United States.

### **A. Discharges in Excess of BAT/BCT Levels**

The Effluent Limitations of the Industrial Stormwater Permit prohibit the discharge of pollutants from the Facility in concentrations above the level commensurate with the application of best available technology economically achievable ("BAT") for toxic pollutants<sup>2</sup> and best conventional pollutant control technology ("BCT") for conventional pollutants.<sup>3</sup> Industrial Stormwater Permit, Order Part B(3). The EPA has published Benchmark values set at the maximum pollutant concentration present if an industrial facility is employing BAT and BCT. These Benchmark values are set forth in Attachment 1 herein.<sup>4</sup>

Marine Express' self-reported exceedances over the last five (5) years, described in Attachment 2 to this letter, indicate that Marine Express has failed and is failing to employ measures at the Facility that constitute BAT and BCT for vessel repair, equipment and vehicle servicing, fueling, cleaning, metalworking and woodworking operations in violation of the requirements of the Industrial Stormwater Permit. Based on information available to Baykeeper, these sampling results are representative of the pollutant levels in the Facility's discharges of stormwater. Baykeeper therefore alleges and notifies Marine Express that its stormwater discharges from the Facility have contained and continue to contain levels of pollutants which exceed Benchmark values for aluminum, iron, lead, zinc, TSS and oil and grease, as well as other pollutants.

Marine Express' ongoing discharges of stormwater containing levels of pollutants above EPA Benchmark values and BAT- and BCT-based levels of control also demonstrate that Marine Express has not developed and implemented sufficient Best Management Practices ("BMPs") at the Facility.

Baykeeper's visual observations of the Facility further support the conclusion that the Facility's BMPs do not constitute BAT and BCT. For example, Marine Express stores materials outside and uncovered where they are exposed to rainfall and conducts activities where pollutants are exposed to rainfall. Proper BAT and BCT measures could include, but are not limited to, moving certain pollution-generating activities under cover or indoors, capturing and effectively filtering or otherwise treating all stormwater prior to discharge, frequent sweeping to reduce vehicle tracking and the build-up of pollutants onsite, and other similar measures.

Marine Express' failure to develop and/or implement adequate pollution controls to meet BAT and BCT at the Facility violates and will continue to violate the Clean Water Act and the Industrial Stormwater Permit each and every day that Marine Express

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<sup>2</sup> BAT is defined at 40 C.F.R. § 442.23. Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others.

<sup>3</sup> BCT is defined at 40 C.F.R. § 442.22. Conventional pollutants are listed at 40 C.F.R. § 401.16 and include BOD, TSS, oil and grease, pH, and fecal coliform.

<sup>4</sup> These Benchmark values are presented in Attachment 1 and can be found at: [http://www.epa.gov/npdes/pubs/msgp2008\\_finalpermit.pdf](http://www.epa.gov/npdes/pubs/msgp2008_finalpermit.pdf) and <http://cwea.org/p3s/documents/multi-sectorrev.pdf> (Last accessed on 9/27/13).



discharges stormwater without meeting BAT/BCT. Baykeeper alleges that Marine Express has discharged stormwater containing excessive levels of pollutants from the Facility to the Oakland Estuary and San Francisco Bay during at least every significant local rain event over 0.1 inches in the last five (5) years. Significant local rain events in the last five (5) years are compiled in Attachment 3.<sup>5</sup> Marine Express is subject to civil penalties for each violation of the Industrial Stormwater Permit and the CWA within the past five (5) years.

## **B. Discharges Impairing Receiving Waters**

The Industrial Stormwater Permit's Discharge Prohibitions disallow stormwater discharges that cause or threaten to cause pollution, contamination, or nuisance. *See* Industrial Stormwater Permit, Order Part A(2). The Industrial Stormwater Permit also prohibits stormwater discharges to surface or groundwater that adversely impact human health or the environment. *Id.* at Order Part C(1). Receiving Water Limitations of the Industrial Stormwater Permit prohibit stormwater discharges that cause or contribute to an exceedance of applicable Water Quality Standards ("WQS"). *Id.* at Order Part C(2). Applicable WQSs are set forth in the California Toxics Rule ("CTR")<sup>6</sup> and Attachment 4 to the Basin Plan. Exceedances of WQSs are violations of the Industrial Stormwater Permit, the CTR, and the Basin Plan.

The Basin Plan, *inter alia*, establishes the following Water Quality Standards for San Francisco Bay and its tributaries:

- Waters shall not contain substances in concentrations that result in the deposition of material that cause nuisance or adversely affect beneficial uses.
- Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.
- Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases from normal background light penetration or turbidity relatable to waste discharge shall not be greater than 10 percent in areas where natural turbidity is greater than 50 NTU.
- All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms. Detrimental responses include, but are not limited to, decreased growth rate and decreased reproductive success of resident or indicator species. There shall be no acute toxicity in ambient waters. Acute toxicity is defined as a median of less than 90 percent survival, or less than 70

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<sup>5</sup> Significant local rain events are reflected in the rain gauge data available at <http://cdec.water.ca.gov> and <http://lwf.ncdc.noaa.gov/oa/ncdc.html>. (Last accessed on 8/20/13).

<sup>6</sup> The CTR is set forth at 40 C.F.R. § 131.38 and is explained in the Federal Register preamble accompanying the CTR promulgation set forth at 65 Fed. Reg. 31682.

percent survival, 10 percent of the time, of test organisms in a 96-hour static or continuous flow test. There shall be no chronic toxicity in ambient waters. Chronic toxicity is a detrimental biological effect on growth rate, reproduction, fertilization success, larval development, population abundance, community composition, or any other relevant measure of the health of an organism, population, or community.

- Surface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use. See the Basin Plan's Table 3-3 for specific marine water quality objectives for toxic pollutants.<sup>7</sup>

Baykeeper alleges that Marine Express' stormwater discharges have caused or contributed to exceedances of the Water Quality Standards ("WQS") set forth in the Basin Plan and California Toxics Rule. These allegations are based on information available to Baykeeper, including Marine Express' self-reported data submitted to the Regional Board indicating exceedances of receiving water limits for lead and zinc at concentrations significantly higher than the legal limits. Based on information available to Baykeeper, these sample results are representative of the pollutant levels in the Facility's discharges of stormwater. In every instance when Marine Express has discharged stormwater, including instances when the Facility has discharged stormwater that has not been sampled, those stormwater discharges have contained comparable levels of pollutants. Accordingly, Marine Express is exceeding WQS on each day when stormwater is discharging from the Facility, in addition to the days on which samples are obtained.

The levels of lead, zinc, and other pollutants in Marine Express' stormwater discharges have caused pollution, contamination, or nuisance in violation of the Discharge Prohibitions of the Industrial Stormwater Permit, and have adversely impacted the environment in violation of the Receiving Water Limitations of the Industrial Stormwater Permit. *See* Industrial Stormwater Permit, Order Parts A(2) and C(2). Moreover, the discharge of these pollutants has caused or contributed to San Francisco Bay's failure to attain one or more applicable WQS in violation of the Receiving Water Limitations. *Id.* at Order Part C(2).

Baykeeper alleges that each day that Marine Express has discharged stormwater from the Facility, Marine Express' stormwater has contained levels of pollutants that exceeded one or more of the applicable WQS in San Francisco Bay. Marine Express discharged stormwater from the Facility during at least every significant local rain event over 0.1 inches and thereby has caused or contributed to Water Quality Standards not being met in San Francisco Bay in the last five years. Attachment 3 compiles all dates in the last five (5) years when a significant rain event occurred. Marine Express' unlawful

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<sup>7</sup> Basin Plan, Table 3-3 is presented in Attachment 4 and is available at: [http://www.waterboards.ca.gov/sanfranciscobay/water\\_issues/programs/planningtmdls/basinplan/web/tab/tab\\_3-03.pdf](http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/planningtmdls/basinplan/web/tab/tab_3-03.pdf). (Last accessed on 9/27/13).



discharges from the Facility have occurred and continue to occur during all significant rain events.

Each discharge from the Facility that has caused or contributed, or causes or contributes to an exceedance of an applicable WQS constitutes a separate violation of the Industrial Stormwater Permit and the CWA. Marine Express is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA within the past five (5) years.

**C. Failure to Develop and/or Implement an Adequate Storm Water Pollution Prevention Plan ("SWPPP")**

The Industrial Stormwater Permit requires dischargers to develop and implement an adequate SWPPP. Industrial Stormwater Permit, Section A: Storm Water Pollution Prevention Plan Requirements, (1)(a). The Industrial Stormwater Permit also requires dischargers to make all necessary revisions to existing SWPPPs promptly. *Id.* at Order Part E(2).

The SWPPP must include, among other requirements, the following: a site map, a list of significant materials handled and stored at the site, a description and assessment of all potential pollutant sources, a description of the BMPs that will reduce or prevent pollutants in stormwater discharges, specification of BMPs designed to reduce pollutant discharge to BAT and BCT levels, a comprehensive site compliance evaluation completed each reporting year, and revisions to the SWPPP within 90 days after a facility manager determines that the SWPPP is in violation of any requirements of the Industrial Stormwater Permit. *See* Industrial Stormwater Permit Section A.

Based on information available to Baykeeper, Marine Express has failed to prepare and/or implement an adequate SWPPP and/or to revise the SWPPP to satisfy each of the requirements of Section A of Industrial Stormwater Permit. For example, Marine Express' SWPPP does not include, and Marine Express has not implemented, adequate BMPs designed to reduce pollutant levels in discharges to BAT and BCT levels in accordance with Section A(8) of the Industrial Stormwater Permit, as evidenced by the data in Attachment 2.

Accordingly, Marine Express has violated the Clean Water Act each and every day it has failed to develop and/or implement an adequate SWPPP meeting all of the requirements of Section A of the Industrial Stormwater Permit, and Marine Express will continue to be in violation every day until they develop and/or implement an adequate SWPPP. Marine Express is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring within the past five (5) years.

**D. Failure to Develop and Implement an Adequate Monitoring and Reporting Program ("MRP") and to Perform Annual Comprehensive Site Compliance Evaluations**



The Industrial Stormwater Permit requires facility operators to develop and implement a Monitoring and Reporting Program. Industrial Stormwater Permit, Section B: Monitoring Program and Reporting Requirements, (1) and Order Part E(3). The Industrial Stormwater Permit requires that the MRP ensure that each facility's stormwater discharges comply with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations specified in the Industrial Stormwater Permit. *Id.* at Section B(2). Facility operators must ensure that their MRP practices reduce or prevent pollutants in stormwater and authorized non-stormwater discharges as well as evaluate and revise their practices to meet changing conditions at the facility. *Id.* This may include revising the SWPPP as required by Section A of the Industrial Stormwater Permit. The MRP must measure the effectiveness of BMPs used to prevent or reduce pollutants in stormwater and authorized non-stormwater discharges, and facility operators must revise the MRP whenever appropriate. *Id.* Facility operators are also required to provide an explanation of monitoring methods describing how the facility's monitoring program will satisfy these objectives. *Id.* at Section B(10).

Marine Express has been operating the Facility with an inadequately developed and/or inadequately implemented MRP, in violation of the substantive and procedural requirements set forth in Section B of the Industrial Stormwater Permit. For example, as the data in Attachment 2 demonstrate, Marine Express' monitoring program has not ensured that stormwater discharges are in compliance with the Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations of the Industrial Stormwater Permit as required by Section B(2). The monitoring program has not resulted in practices at the Facility that adequately reduce or prevent pollutants in stormwater as required by Order Part B(2). Marine Express' MRP has not effectively identified or responded to compliance problems at the Facility or resulted in effective revision of BMPs in use or the Facility's SWPPP to address such ongoing problems as required by Section B(2).

As a result of Marine Express' failure to adequately develop and/or implement an adequate MRP at the Facility, Marine Express has been in daily and continuous violation of the Industrial Stormwater Permit and the CWA on each and every day for the past five (5) years. These violations are ongoing. Marine Express will continue to be in violation of the monitoring and reporting requirements each day Marine Express fails to adequately develop and/or implement an effective MRP at the Facility. Marine Express is subject to penalties for each violation of the Industrial Stormwater Permit and the CWA occurring for the last five (5) years.

#### **D. Discharges Without Permit Coverage**

Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a), prohibits the discharge of any pollutant into waters of the United States unless the discharge is authorized by a NPDES permit issued pursuant to section 402 of the Clean Water Act. 33 U.S.C. §§ 1311(a), 1342. Marine Express sought coverage under the Industrial Stormwater Permit, which states that any discharge from an industrial facility not in compliance with the Industrial Stormwater Permit "must be either eliminated or permitted by a separate NPDES permit." Industrial Stormwater Permit, Order Part A(1).



Because Marine Express has not obtained coverage under any separate NPDES permit and is discharging without complying with the Industrial Stormwater Permit, each and every discharge from the Facility described herein not in compliance with the Industrial Stormwater Permit has constituted and will continue to constitute a discharge without CWA permit coverage in violation of section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a).

### **III. PERSONS RESPONSIBLE FOR THE VIOLATIONS**

Marine Express, Inc. is the person responsible for the violations at the Facility described above.

### **IV. NAME AND ADDRESS OF NOTICING PARTY**

Our name, address, and telephone number is as follows:

San Francisco Baykeeper  
785 Market Street, Suite 850  
San Francisco, CA 94103  
(415) 856-0444

### **V. COUNSEL**

Baykeeper is represented by the following counsel in this matter, to whom all communications should be directed:

Jayni Foley Hein  
Sejal Choksi-Chugh  
San Francisco Baykeeper  
785 Market Street, Suite 850  
San Francisco, CA 94103  
(415) 856-0444

Jayni Foley Hein: (415) 856-0444 x105, [jayni@baykeeper.org](mailto:jayni@baykeeper.org)  
Sejal Choksi-Chugh: (415) 856-0444 x110, [sejal@baykeeper.org](mailto:sejal@baykeeper.org)

### **VI. REMEDIES**

Baykeeper intends, at the close of the 60-day notice period or thereafter, to file a citizen suit under CWA section 505(a) against Marine Express for the above-referenced violations. Baykeeper will seek declaratory and injunctive relief to prevent further CWA violations pursuant to CWA sections 505(a) and (d), 33 U.S.C. §1365(a) and such other relief as permitted by law. In addition, Baykeeper will seek civil penalties pursuant to CWA section 309(d), 33 U.S.C. § 1319(d) and 40 C.F.R. section 19.4, against Marine Express in this action. The CWA imposes civil penalty liability of up to \$32,500 per day per CWA violation for violations occurring from September 30, 2008 through January

12, 2009, and \$37,500 per day per violation for violations occurring after January 12, 2009. 33 U.S.C. § 1319(d); 40 C.F.R. § 19.4 (2009). Baykeeper will seek to recover attorneys' fees, experts' fees, and costs in accordance with CWA section 505(d), 33 U.S.C. § 1365(d).

As noted above, Baykeeper is willing to discuss effective remedies for the violations noted in this letter during the 60-day notice period. Please contact us to initiate these discussions.

Sincerely,



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Sejal Choksi-Chugh  
Senior Staff Attorney  
San Francisco Baykeeper



Cc:

Gina McCarthy, Administrator US EPA, Ariel Rios Building 1200 Pennsylvania Avenue, N.W. Mail Code: 1101A Washington, D.C. 20460	Eric H. Holder, Jr. Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530-0001
Jared Blumenfeld Regional Administrator U.S. EPA - Region 9 75 Hawthorne Street San Francisco, CA 94105	Thomas Howard Executive Director State Water Resources Control Board 1001 I Street Sacramento, CA 95814
Bruce Wolfe Executive Officer Regional Water Quality Control Board San Francisco Bay Region 1515 Clay Street, Suite 1400 Oakland, CA 94612	





## Attachment 1: EPA Benchmarks

Parameter	Units	Benchmark value
Biochemical Oxygen Demand	mg/L	30
Chemical Oxygen Demand (COD)	mg/L	120
Total Suspended Solids (TSS)	mg/L	100
Oil and Grease	mg/L	15
Nitrate + Nitrite Nitrogen	mg/L	0.68
Total Phosphorus	mg/L	2
pH	SU - low	6
pH	SU - high	9
Acrylonitrile	mg/L	7.55
Aluminum Total	mg/L	0.75
Ammonia Total (as N)	mg/L	19
Antimony, Total	mg/L	0.64
Arsenic Total	mg/L	0.15
Benzene	mg/L	0.01
Beryllium, Total	mg/L	0.13
Butylbenzyl Phthalate	mg/L	3
Chloride	mg/L	860
Copper Total	mg/L	0.0636
Dimethyl Phthalate	mg/L	1
Ethylbenzene	mg/L	3.1
Fluoranthene	mg/L	0.042
Fluoride	mg/L	1.8
Iron Total	mg/L	1
Lead Total	mg/L	0.0816
Manganese	mg/L	1
Mercury Total	mg/L	0.0024
Nickel Total	mg/L	1.417
PCB-1016	mg/L	0.000127
PCB-1221	mg/L	0.1
PCB-1232	mg/L	0.000318
PCB-1242	mg/L	0.0002
PCB-1248	mg/L	0.002544
PCB-1254	mg/L	0.1
PCB-1260	mg/L	0.000477
Phenols, Total	mg/L	1
Pyrene	mg/L	0.01
Selenium Total	mg/L	0.2385
Silver Total	mg/L	0.0318
Toluene	mg/L	10
Trichloroethylene	mg/L	0.0027
Zinc Total	mg/L	0.117
Cyanide Total (as CN)	mg/L	0.0636
Magnesium Total	mg/L	0.064
Electrical Conductivity @ 25 Deg. C	umhos/cm	200





## Attachment 2: Table of Violations for Marine Express

Table containing each stormwater sample result provided by Marine Express in which samples exceed Water Quality Standards (yellow), or EPA Benchmarks (green), or both (green). The EPA Benchmarks and Water Quality Standards are listed at the end of the table. All stormwater samples were collected during the past five years.

No.	Sampling Location	Date	Parameter		Value	Units	Wet Season
1	Seaway Yard	4/1/2013	pH	=	9.06	SU	2012-2013
2	Seaway Yard	4/1/2013	Aluminum Total	=	230	mg/L	2012-2013
3	Seaway Yard	4/1/2013	Iron Total	=	190	mg/L	2012-2013
4	Seaway Yard	4/1/2013	Zinc Total	=	46	mg/L	2012-2013
5	Seaway Yard	4/1/2013	Lead Total	=	4.8	mg/L	2012-2013
6	2	4/1/2013	Oil and Grease	=	15	mg/L	2012-2013
7	2	4/1/2013	Aluminum Total	=	1800	mg/L	2012-2013
8	2	4/1/2013	Iron Total	=	1900	mg/L	2012-2013
9	2	4/1/2013	Zinc Total	=	1300	mg/L	2012-2013
10	2	4/1/2013	Lead Total	=	110	mg/L	2012-2013
11	1	4/1/2013	Aluminum Total	=	280	mg/L	2012-2013
12	1	4/1/2013	Iron Total	=	540	mg/L	2012-2013
13	1	4/1/2013	Zinc Total	=	430	mg/L	2012-2013
14	1	4/1/2013	Lead Total	=	5	mg/L	2012-2013
15	Seaway Yard	11/30/2012	Aluminum Total	=	120	mg/L	2012-2013
16	Seaway Yard	11/30/2012	Iron Total	=	170	mg/L	2012-2013
17	Seaway Yard	11/30/2012	Zinc Total	=	54	mg/L	2012-2013
18	Seaway Yard	11/30/2012	Lead Total	=	7.5	mg/L	2012-2013
19	2	11/30/2012	Aluminum Total	=	910	mg/L	2012-2013
20	2	11/30/2012	Iron Total	=	1900	mg/L	2012-2013
21	2	11/30/2012	Zinc Total	=	180	mg/L	2012-2013
22	2	11/30/2012	Lead Total	=	12	mg/L	2012-2013
23	1	11/30/2012	Aluminum Total	=	120	mg/L	2012-2013
24	1	11/30/2012	Iron Total	=	220	mg/L	2012-2013
25	1	11/30/2012	Zinc Total	=	360	mg/L	2012-2013
26	1	11/30/2012	Lead Total	=	2.7	mg/L	2012-2013
27	Seaway Yard	3/13/2012	Aluminum Total	=	690	mg/L	2011-2012
28	Seaway Yard	3/13/2012	Iron Total	=	940	mg/L	2011-2012
29	Seaway Yard	3/13/2012	Zinc Total	=	200	mg/L	2011-2012
30	Seaway Yard	3/13/2012	Lead Total	=	38	mg/L	2011-2012
31	2	3/13/2012	Aluminum Total	=	2100	mg/L	2011-2012
32	2	3/13/2012	Iron Total	=	3600	mg/L	2011-2012
33	2	3/13/2012	Zinc Total	=	340	mg/L	2011-2012
34	2	3/13/2012	Lead Total	=	18	mg/L	2011-2012
35	1	3/13/2012	Aluminum Total	=	360	mg/L	2011-2012



36	1	3/13/2012	Iron Total	=	730	mg/L	2011-2012
37	1	3/13/2012	Zinc Total	=	630	mg/L	2011-2012
38	1	3/13/2012	Lead Total	=	9.5	mg/L	2011-2012
39	Seaway Yard	1/20/2012	Aluminum Total	=	430	mg/L	2011-2012
40	Seaway Yard	1/20/2012	Zinc Total	=	280	mg/L	2011-2012
41	Seaway Yard	1/20/2012	Lead Total	=	26	mg/L	2011-2012
42	2	1/20/2012	Total Suspended Solids (TSS)	=	184	mg/L	2011-2012
43	2	1/20/2012	Oil and Grease	=	21	mg/L	2011-2012
44	2	1/20/2012	Aluminum Total	=	760	mg/L	2011-2012
45	2	1/20/2012	Iron Total	=	1400	mg/L	2011-2012
46	2	1/20/2012	Zinc Total	=	55	mg/L	2011-2012
47	2	1/20/2012	Lead Total	=	17	mg/L	2011-2012
48	1	1/20/2012	Aluminum Total	=	700	mg/L	2011-2012
49	1	1/20/2012	Iron Total	=	1400	mg/L	2011-2012
50	1	1/20/2012	Zinc Total	=	1100	mg/L	2011-2012
51	1	1/20/2012	Lead Total	=	17	mg/L	2011-2012
52	Seaway Yard	3/18/2011	Zinc Total	=	0.13	mg/L	2010-2011
53	Seaway Yard	3/18/2011	Lead Total	=	0.36	mg/L	2010-2011
54	2	3/18/2011	Iron Total	=	1.2	mg/L	2010-2011
55	2	3/18/2011	Zinc Total	=	0.97	mg/L	2010-2011
56	1	3/18/2011	Aluminum Total	=	1.6	mg/L	2010-2011
57	1	3/18/2011	Iron Total	=	3.1	mg/L	2010-2011
58	1	3/18/2011	Zinc Total	=	0.19	mg/L	2010-2011
59	Seaway Yard	2/17/2011	Aluminum Total	=	2.1	mg/L	2010-2011
60	Seaway Yard	2/17/2011	Iron Total	=	7.4	mg/L	2010-2011
61	Seaway Yard	2/17/2011	Zinc Total	=	0.73	mg/L	2010-2011
62	Seaway Yard	2/17/2011	Lead Total	=	0.18	mg/L	2010-2011
63	1	2/17/2011	Iron Total	=	2.1	mg/L	2010-2011
64	1	2/17/2011	Zinc Total	=	0.34	mg/L	2010-2011
65	2	2/17/2011	Aluminum Total	=	1.1	mg/L	2010-2011
66	2	2/17/2011	Iron Total	=	1.8	mg/L	2010-2011
67	2	2/17/2011	Zinc Total	=	0.66	mg/L	2010-2011
68	2	2/17/2011	Lead Total	=	0.13	mg/L	2010-2011
69	Seaway Yard	3/31/2010	Total Suspended Solids (TSS)	=	198	mg/L	2009-2010
70	Seaway Yard	3/31/2010	Aluminum Total	=	2500	mg/L	2009-2010
71	Seaway Yard	3/31/2010	Iron Total	=	4400	mg/L	2009-2010
72	Seaway Yard	3/31/2010	Zinc Total	=	520	mg/L	2009-2010
73	Seaway Yard	3/31/2010	Lead Total	=	22	mg/L	2009-2010
74	2	3/31/2010	Total Suspended Solids (TSS)	=	282	mg/L	2009-2010
75	2	3/31/2010	Oil and Grease	=	15	mg/L	2009-2010
76	2	3/31/2010	Aluminum Total	=	7400	mg/L	2009-2010
77	2	3/31/2010	Iron Total	=	14000	mg/L	2009-2010
78	2	3/31/2010	Zinc Total	=	1300	mg/L	2009-2010



79	2	3/31/2010	Lead Total	=	66	mg/L	2009-2010
80	1	3/31/2010	Aluminum Total	=	2700	mg/L	2009-2010
81	1	3/31/2010	Iron Total	=	4400	mg/L	2009-2010
82	1	3/31/2010	Zinc Total	=	330	mg/L	2009-2010
83	1	3/31/2010	Lead Total	=	67	mg/L	2009-2010
84	Seaway Yard	2/4/2010	Aluminum Total	=	2800	mg/L	2009-2010
85	Seaway Yard	2/4/2010	Iron Total	=	12000	mg/L	2009-2010
86	Seaway Yard	2/4/2010	Zinc Total	=	450	mg/L	2009-2010
87	Seaway Yard	2/4/2010	Lead Total	=	36	mg/L	2009-2010
88	2	2/4/2010	Total Suspended Solids (TSS)	=	112	mg/L	2009-2010
89	2	2/4/2010	Oil and Grease	=	16	mg/L	2009-2010
90	2	2/4/2010	Aluminum Total	=	4000	mg/L	2009-2010
91	2	2/4/2010	Iron Total	=	7300	mg/L	2009-2010
92	2	2/4/2010	Zinc Total	=	320	mg/L	2009-2010
93	2	2/4/2010	Lead Total	=	30	mg/L	2009-2010
94	1	2/4/2010	Total Suspended Solids (TSS)	=	238	mg/L	2009-2010
95	1	2/4/2010	Aluminum Total	=	7300	mg/L	2009-2010
96	1	2/4/2010	Iron Total	=	11000	mg/L	2009-2010
97	1	2/4/2010	Zinc Total	=	1100	mg/L	2009-2010
98	1	2/4/2010	Lead Total	=	120	mg/L	2009-2010
99	Seaway Yard	5/1/2009	Aluminum Total	=	710	mg/L	2008-2009
100	Seaway Yard	5/1/2009	Iron Total	=	1000	mg/L	2008-2009
101	Seaway Yard	5/1/2009	Zinc Total	=	220	mg/L	2008-2009
102	Seaway Yard	5/1/2009	Lead Total	=	5.8	mg/L	2008-2009
103	2	5/1/2009	Aluminum Total	=	1200	mg/L	2008-2009
104	2	5/1/2009	Iron Total	=	1800	mg/L	2008-2009
105	2	5/1/2009	Zinc Total	=	610	mg/L	2008-2009
106	2	5/1/2009	Lead Total	=	12	mg/L	2008-2009
107	1	5/1/2009	Aluminum Total	=	1300	mg/L	2008-2009
108	1	5/1/2009	Iron Total	=	2100	mg/L	2008-2009
109	1	5/1/2009	Zinc Total	=	960	mg/L	2008-2009
110	1	5/1/2009	Lead Total	=	13	mg/L	2008-2009
111	Seaway Yard	10/30/2008	pH	=	5.31	SU	2008-2009
112	Seaway Yard	10/30/2008	Aluminum Total	=	840	mg/L	2008-2009
113	Seaway Yard	10/30/2008	Iron Total	=	2100	mg/L	2008-2009
114	Seaway Yard	10/30/2008	Zinc Total	=	210	mg/L	2008-2009
115	Seaway Yard	10/30/2008	Lead Total	=	17	mg/L	2008-2009
116	2	10/30/2008	Aluminum Total	=	280	mg/L	2008-2009
117	2	10/30/2008	Iron Total	=	510	mg/L	2008-2009
118	2	10/30/2008	Zinc Total	=	62	mg/L	2008-2009
119	2	10/30/2008	Lead Total	=	3.4	mg/L	2008-2009
120	1	10/30/2008	Aluminum Total	=	1000	mg/L	2008-2009
121	1	10/30/2008	Iron Total	=	510	mg/L	2008-2009



122	1	10/30/2008	Zinc Total	=	550	mg/L	2008-2009
123	1	10/30/2008	Lead Total	=	40	mg/L	2008-2009

**California Toxics Rule (CTR) Criterion Maximum Concentration or 2008 EPA benchmarks (Multi Sector General Permit; MSGP)**

Parameter	Units	Benchmark value	Source
Chemical Oxygen Demand (COD)	mg/L	120	MSGP
Total Suspended Solids (TSS)	mg/L	100	MSGP
Aluminum Total	mg/L	0.75	MSGP
Arsenic Total	mg/L	0.34	CTR
Copper Total	mg/L	0.013	CTR*
Iron Total	mg/L	1	MSGP
Lead Total	mg/L	0.069	MSGP*
Nickel Total	mg/L	0.42	MSGP*
Silver Total	mg/L	0.0318	MSGP*
Zinc Total	mg/L	0.11	MSGP*
Cyanide Total (as CN)	mg/L	0.022	CTR
Nitrate + Nitrite Nitrogen	mg/L	0.68	MSGP

\*Hardness dependent in freshwater; assuming hardness of 100 mg/L CaCO<sub>3</sub>.

**Criteria - Basin Plan (BP), Freshwater**

Parameter	Units	Water Quality Standard	Source
Arsenic Total	mg/L	0.34	BP
Cadium, Total	mg/L	0.0039	BP*
Chromium VI	mg/L	0.016	BP
Copper Total	mg/L	0.0108	BP (SSO)
Cyanide Total (as CN)	mg/L	0.022	BP
Lead Total	mg/L	0.22	BP
Mercury Total	mg/L	0.0024	BP
Selenium Total	mg/L	0.29	BP
Silver Total	mg/L	0.0034	BP*
Zinc Total	mg/L	0.12	BP*
Nickel Total	mg/L	0.0624	BP* (SSO)

\*Hardness dependent in freshwater; assuming hardness of 100 mg/L CaCO<sub>3</sub>.

SSO = Site Specific Objective



### Attachment 3: Alleged Dates of Marine Express' Violations October 2008 to June 2013

Days with Precipitation One Tenth of an Inch or Greater, as reported by NOAA's National Climatic Data Center, Oakland Museum station. <http://www7.ncdc.noaa.gov/IPS/coop/coop.html>.

2008	2009	2010	2011	2012	2013
10/4	1/2	1/12	1/1	1/19	1/5
10/31	1/21	1/17	1/2	1/20	1/23
11/1	1/22	1/18	1/29	1/21	2/7
11/13	2/5	1/19	1/30	1/22	2/19
11/26	2/6	1/20	2/14	1/23	3/5
12/14	2/8	1/21	2/15	2/7	3/6
12/15	2/10	1/22	2/16	2/13	3/31
12/16	2/11	1/23	2/17	3/13	4/1
12/19	2/13	1/25	2/18	3/14	4/4
12/21	2/15	1/26	2/19	3/15	6/25
12/24	2/16	1/29	2/24	3/16	
12/25	2/17	2/4	2/25	3/24	
	2/22	2/6	3/6	3/25	
	2/23	2/9	3/13	3/27	
	2/25	2/21	3/14	3/31	
	3/1	2/23	3/15	4/10	
	3/2	2/24	3/18	4/12	
	3/3	2/26	3/19	4/13	
	3/5	2/27	3/20	4/25	
	3/15	3/2	3/22	6/4	
	3/22	3/3	3/23	10/22	
	4/7	3/12	3/24	10/23	
	5/1	3/31	3/25	10/31	
	5/5	4/2	3/26	11/1	
	9/13	4/4	5/14	11/9	
	10/13	4/11	5/16	11/16	
	10/19	4/12	5/17	11/17	
	11/6	4/20	5/25	11/20	
	11/20	4/27	5/28	11/21	
	11/27	5/9	5/31	11/28	
	12/6	5/10	6/1	11/30	
	12/7	5/25	6/4	12/1	
	12/10	5/27	6/28	12/2	
	12/11	10/23	10/3	12/5	
	12/12	10/24	10/4	12/15	
	12/13	10/29	10/5	12/17	
	12/21	11/7	10/6	12/21	
	12/26	11/19	10/10	12/22	

		11/20	11/5	12/23	
		11/21	11/11	12/25	
		11/22	11/19*		
		11/23	11/20*		
		11/27	11/24		
		12/5			
		12/8			
		12/14			
		12/17			
		12/18			
		12/19			
		12/21			
		12/22			
		12/25			
		12/28			

\* Dates for which data was missing at Oakland Station; data from Berkeley station was used to identify precipitation level.



#### Attachment 4: Water Quality Standards

Parameter	Units	Water quality standard	Source
Arsenic Total	mg/L	0.069	Basin Plan
Cadium, Total	mg/L	0.042	Basin Plan
Chromium VI	mg/L	1.1	Basin Plan
Copper Total	mg/L	0.0108	Basin Plan, Site Specific Objectives
Cyanide Total (as CN)	mg/L	0.0094	Basin Plan, Site Specific Objectives
Lead Total	mg/L	0.22	Basin Plan
Mercury Total	mg/L	0.0021	Basin Plan
Selenium Total	mg/L	0.29	California Toxics Rule
Silver Total	mg/L	0.0019	Basin Plan
Zinc Total	mg/L	0.09	Basin Plan
PAHs	mg/L	0.015	Basin Plan
Nickel Total	mg/L	0.0624	Basin Plan, Site Specific Objectives

